IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE PIUS C.KURIAKOSE

FRIDAY, THE 24TH AUGUST 2007 / 2ND BHADRA 1929

WP(C).No. 34372 of 2005(P)

AGAINST THE ORDER IN IA 2504/2005 IN
OS.590/2004 of ADDL.MUNSIFF COURT, PALAKKAD

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PETITIONER:

M/S.GENERAL RUBBER WORKS,
REPRESENTED BY ITS MANAGING PARTNER,
K.S.JOSEPH, S/O.LATE DEVASSYA, THIRUVILLWAMALA,
THRISSUR DISTRICT.

BY ADV. SRI.G.SHRIKUMAR

RESPONDENTS:

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1. K.ABOOBACKER, SUB INSPECTOR OF POLICE,
PALAKKAD, PALAKKAD JUNCTION,
RAILWAY POLICE STATION, PALAKKAD-678 002.

2. STATE OF KERALA,
REP. BY THE DISTRICT COLLECTOR,
PALAKKAD.

3. INTELLIGENCE OFFICER,
SQUAD NO.I, COMMERCIAL TAXES,
PALAKKAD.

4. RAILWAY DIVISIONAL MANAGER,
SOUTHERN RAILWAYS,
RAILWAY DIVISIONAL OFFICE,
OLAVAKKODE, PALAKKAD-678 002.

R1-R2 BY GOVT. PLEADER MR.MATHEW G.VADAKKEL
R4 BY ADV. SRI.S.K.MURALEEDHARA KAIMAL, SC,RAILWAYS

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 24/08/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

APPENDIX(WPC 34372/05)

PETITIONER'S EXTS.:

EXT.P1: TRUE COPY OF ORDER OF THE MUNSIFF'S COURT, PALAKKAD IN I.A.NO.2504/05 IN O.S.NO.590/04 DATED 8.11.2005.

PIUS C. KURIAKOSE,J.

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W.P.(C) No.34372 of 2005

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Dated: 24th August, 2007

JUDGMENT

Impugned in this Writ Petition under Article 227 of the Constitution is Ext.P1 order passed by the learned Munsiff on an application for amendment of the plaint so as to reduce the valuation of the suit by Rs.36,000/- and odd. The suit claim was around Rs.51,000/- by way of damages against the 1st respondent. During the pendency of the suit an Advocate Commissioner was appointed to conduct sale of the articles belonging to the petitioner which had been seized from him wrongfully by the 1st respondent. The Commissioner sold the properties and the sale realised a sum of Rs.36,000/- and odd. The entire sale proceeds was paid over to the petitioner. After realising the amount, the petitioner filed the present application for amendment of the plaint so as to reduce the plaint claim. The learned Munsiff has found that the very objective of the application is to avoid payment of court fee to the Government on a sum of Rs.36,000/- and odd which he could recover only because of the suit and the orders passed in that suit. Though not on the considerations which normally weigh with courts while exercising powers under Order VI Rule 17, the impugned order is sustainable on

considerations of justice from the Government's point of view. A party who secured relief should not be allowed to say after having secured relief that he will not pay what is due to the Revenue. At any rate, impugned order does not warrant correction under the supervisory jurisdiction of this court which is invoked only in exceptional circumstances. The challenge against Ext.P1 fails and the Writ Petition will stand dismissed. No costs.

srd **PIUS C.KURIAKOSE, JUDGE**